



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 14 2007

Pamela B Stuart, Esq
The J Raymond Stuart Building
1750 N Street, N W
Washington, D C 20463

RE MUR 5876
Bowman for Congress Campaign Committee, and
Teresa Katz, in her official capacity as treasurer¹
Institute for Space and Securities Studies

Dear Ms Stuart

By letter dated November 9, 2006, the Federal Election Commission notified your clients, Bowman for Congress Campaign Committee and Teresa Katz, in her official capacity as treasurer ("Committee"), and the Institute for Space and Securities Studies ("ISSS") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on September 7, 2007, determined to dismiss as a matter of prosecutorial discretion the allegations that the Committee and ISSS violated 2 U.S.C. § 441b(a). See *Heckler v. Chaney*, 470 U.S. 821 (1985). The Commission further determined to dismiss as a matter of prosecutorial discretion the Committee's violations of 2 U.S.C. §§ 441d(c)(2) and 434(b)(3)(A). *Id.* The Factual and Legal Analyses, which more fully explain the Commission's findings, are enclosed for your information.

The Commission reminds your clients, that the Committee's use of ISSS' mailing list to mail campaign communications appears to be a violation of 2 U.S.C. § 441b(a). In addition, the Committee's use of Discount Newsletter Printing, Inc.'s non-profit mailing postal privilege to mail campaign communications appears to be a violation of 2 U.S.C. § 441b(a). Further, the Committee's failure to place the disclaimer on the June 2006 edition of *National Security News* in a printed box set apart from the other contents of the communication appears to be a violation of 2 U.S.C. § 441d(c)(2). Your clients should take steps to ensure that these activities do not occur in the future. The Commission also reminds the Committee to amend its disclosure reports to disclose receipt of the in-kind corporate contributions from ISSS (in the form of its mailing list) and Discount Newsletter Printing, Inc. (in the form of use of its non-profit mailing postal privilege) on Schedule A, as well as offset those receipts on Schedule B. Last, the Committee

¹ Patti D. Gibbons served as the Committee's treasurer during the time of the activity in question.

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Ms. Pamela B. Stuart Esq.
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should amend the appropriate report to include an explanation of the Post Office disbursement stating that this payment was made to remedy the receipt of the in-kind corporate contribution received from Discount Newsletter Printing, Inc.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Sidney Rocke
Assistant General Counsel

Enclosures
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Bowman for Congress Campaign Committee and
Teresa Katz, in her official capacity as treasurer¹

MUR: 5876

I. BACKGROUND

This matter was generated by a complaint filed with the Federal Election Commission by the Brevard County Republican Party. See 2 U.S.C. § 437g(a)(1). The complaint alleges that Bowman for Congress Campaign Committee ("the Committee") used the resources of the Institute for Space and Security Studies ("ISSS"), a tax-exempt 26 U.S.C. § 501(c)(3) organization, to support Dr. Bowman's election to the U.S. House of Representatives in Florida's 15th Congressional District in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2. Specifically, the complaint alleges that ISSS distributed by mail, with use of its non-profit organization paid postal privilege, a newsletter entitled *National Security News* that was entirely devoted to expressly advocating Dr. Bowman's election to Federal office.

Based on the facts presented in the complaint, the response, as well as other available information, the Commission has determined to exercise its prosecutorial discretion to dismiss the matter as it pertains to the Bowman for Congress Campaign Committee's apparent violations of 2 U.S.C. §§ 441b(a), 441d(c)(2), and 434(b)(3)(A). See *Heckler v. Chaney*, 470 U.S. 821 (1985).

¹ Patti D. Gibbons served as the Committee's treasurer during the time of the activity in question.

II. FACTUAL AND LEGAL ANALYSIS

A. The Committee's use of ISSS' mailing list and Discount Newsletter Printing Inc.'s non-profit mailing permit to mail campaign material violated 2 U.S.C. § 441b(a).

Since the 1980's, ISSS has published *Space & Security News*, a newsletter to subscribers on topics relating to space and high technology issues affecting national security.² See Response at p. 2. ISSS does not have its own non-profit organization mailing permit, but rather has been using the services of Discount Newsletter Printing, Inc. for the past 20 years to mail its publication. See Bowman Affidavit at p. 2, December 7, 2006.

The publication at issue in the complaint, *National Security News*, was a campaign communication mailed in June and October 2006 to "potential supporters including the 12,000 subscribers and friends of [ISSS] and approximately 6,000 other contributors and political supporters." Response at p. 2. The first page of *National Security News* states that publication of *Space & Security News* was suspended from November 2005 through November 2006 due to Dr. Bowman's campaign for Congress. See *id.* at Exhibit 6.

The articles in the June 2006 issue of *National Security News* support Dr. Bowman's candidacy for Federal office, describe his views on issues and positions related to his campaign, and provide contact information for his campaign. See Response at Exhibit 6. The newsletter does not refer to any other candidates. *Id.* The first and last pages of the newsletter contain solicitations for contributions to the Committee. *Id.* In addition, at the top of the first page, the

² In the 1980s, Dr. Bowman founded ISSS and its publication *Space & Security News* ("SSN"). See Response at pp. 1 - 2, December 11, 2006. ISSS is an organization devoted to research and educational activities in the field of national security. See Bowman Affidavit at p. 1, December 7, 2006. A search of Dunn & Bradstreet's public records database indicates that ISSS has one employee (i.e., Dr. Bowman) and is operated out of Dr. Bowman's residence.

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1 newsletter states that it is "paid for by Bowman for Congress," and at the top of the last page the
2 newsletter states, "National Security News is published by Bowman for Congress." *Id.* The
3 sender of the newsletter is listed as "Bowman2006 Congressional Campaign Committee," and a
4 non-profit organization paid mailing permit appears to have been used to mail the newsletter. *Id.*

5 While there is no information indicating that *National Security News* was targeted
6 exclusively to potential voters in Dr. Bowman's congressional district, page seven of the
7 newsletter states, " if you live in the district, you can host a house party, walk your precinct,
8 make phone calls, or join Bob's volunteer staff." *See* Response at Exhibit 6. This suggests that
9 the newsletter was mailed to at least some potential voters, and, of course, all recipients would
10 have been potential contributors.

11 The Committee mailed *National Security News* with Discount Newsletter Printing, Inc.'s
12 non-profit paid postal privilege. *See* Response at pp. 2 - 3. According to the response, Lee
13 Boeble, the proprietor of Discount Newsletter Printing, Inc. misinformed the Committee about
14 proper use of the printer's non-profit paid postal privilege to mail campaign material. *See*
15 Bowman Affidavit at p. 3. The response states that at some point in time after June 2006, Dr.
16 Bowman sought legal advice as to the appropriate method to mail campaign material, and was
17 advised by counsel that election campaign material had to be mailed using the usual first class
18 mailing rate or bulk rates applicable to bulk mail.³ *See id.*

19 The Committee calculated the additional postage it should have paid for the mailing of
20 the June 2006 edition of *National Security News*, as \$1,097.05, and submitted documentation

³ In contrast to the June 2006 issue, the October 2006 issue of *National Security News* was sent by Discount Newsletter Printing, Inc using the printing company's standard bulk rate indicia. *See* Bowman Affidavit at p 3.

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1 with the response that it had reimbursed that sum to the Post Office on November 27, 2006.⁴

2 The Committee's 2006 Year-End Report disclosed this disbursement. With respect to the
3 October 2006 issue of *National Security News*, invoices and receipts attached to the response
4 appear to show that the Committee paid the correct postage.

5 The Act prohibits corporate expenditures or contributions in connection with a Federal
6 election. *See* 2 U.S.C. § 441b(a). A contribution is defined as including any gift, subscription,
7 loan, advance, or deposit of money, or anything of value made by any person for the purpose of
8 influencing any Federal election. 11 C.F.R. § 100.52(a). The term "anything of value" includes
9 all in-kind contributions; and unless specifically exempted, the provision of goods or services
10 without charge or at a charge that is less than the usual and normal charge for such good or
11 service. 11 C.F.R. § 100.52(d)(1).

12 The Committee's use of Discount Newsletter Printing, Inc.'s non-profit mailing permit to
13 mail campaign material at a discounted rate constituted an in-kind corporate contribution
14 received by the Committee from Discount Newsletter Printing, Inc. in violation of 2 U.S.C.
15 § 441b(a).

16 Similarly, it appears the Committee's use of ISSS' mailing list to mail its campaign
17 material violated the Act's prohibition against corporate expenditures or contributions in
18 connection with a Federal election. *See* 2 U.S.C. § 441b(a). The regulations specify mailing lists
19 as an example of a good or service. *Id.*

⁴ Based upon the postage rates from Discount Newsletter Printing, Inc., it appears that the Committee reimbursed the Post Office the correct sum

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1 ISSS' mailing list was something of value used by the Committee to support
2 Dr Bowman's candidacy for Federal office, and therefore, constituted the Committee's receipt of
3 an in-kind corporate contribution from ISSS in violation of 2 U.S.C. § 441b(a).

4 In addition, the Committee did not disclose the receipt of the in-kind corporate
5 contributions from ISSS or Discount Newsletter Printing, Inc. in violation of the Act's reporting
6 requirements. See 2 U.S.C. § 434(b)(3)(A).

7 **B. The Committee's newsletter failed to meet disclaimer specification requirements**
8 **in violation of 2 U.S.C. § 441d(c)(2).**
9

10 The June 2006 edition of the *National Security News* constitutes a public communication
11 because it was a mass mailing (more than 500 pieces of mail matter of identical or substantially
12 similar nature within any 30-day period) to the general public as defined by 11 C.F.R. §§ 100.26
13 and 100.27. See 2 U.S.C. § 441d. Accordingly, the newsletter was required to contain the
14 appropriate disclaimer. 11 C.F.R. § 110.11(a) The newsletter was paid for and authorized by
15 the candidate, therefore, the disclaimer must clearly state that the authorized political committee
16 paid for the communication. 11 C.F.R. § 110.11(b)(1). In this matter, the newsletter contained
17 the appropriate content requirements for disclaimers. See *id.*

18 The newsletter also met most of the specification requirements for disclaimers. 2 U.S.C.
19 § 441d(c) and 11 C.F.R. § 110.11(c). The disclaimer was on the front page of the
20 communication, it was in 12-point type size, black text against a white background, and was
21 clearly readable by the recipient of the communication. 11 C.F.R. § 110.11(c)(2)(i) and (iii).
22 The only specification lacking was that the disclaimer was not contained in a printed box set
23 apart from the other contents of the communication. 2 U.S.C. § 441d(c)(2); 11 C.F.R.
24 § 110.11(c)(2)(ii).

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1 Given the small amounts in violation, however, in the appropriate ordering of its
2 priorities, the Commission has determined to exercise its prosecutorial discretion to dismiss the
3 matter as it pertains to the Bowman for Congress Campaign Committee's violations of 2 U.S.C.
4 §§ 441b(a), 441d(c)(2), and 434(b)(3)(A) and issue an admonishment.

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4 RESPONDENT: Institute for Space and Security Studies MUR: 5876
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7 **I. BACKGROUND**
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9 This matter was generated by a complaint filed with the Federal Election Commission by
10 the Brevard County Republican Party. *See* 2 U.S.C. § 437g(a)(1). The complaint alleges that the
11 Institute for Space and Security Studies (“ISSS”), a tax-exempt 26 U.S.C. § 501(c)(3)
12 organization, used its resources to support Dr. Bob Bowman’s election to the U.S. House of
13 Representatives in Florida’s 15th Congressional District in violation of 2 U.S.C. § 441b(a) and
14 11 C.F.R. § 114.2 Specifically, the complaint alleges that ISSS distributed by mail, with use of
15 its non-profit organization paid postal privilege, a newsletter entitled *National Security News* that
16 was entirely devoted to expressly advocating Dr. Bowman’s election to Federal office.

17 ISSS acknowledges that *National Security News* was a campaign communication, but
18 denies that any of its resources were used in the production or mailing of the newsletter. *See*
19 Bowman Affidavit at pp. 2 - 4, December 7, 2006 However, the response indicates that
20 *National Security News* was paid for by the Committee and mailed to 12,000 of ISSS’
21 subscribers. *See* Response at p 2.

22 Based on the facts presented in the complaint, the response, as well as other available
23 information, the Commission has determined to exercise its prosecutorial discretion to dismiss
24 the matter as it pertains to the Institute for Space and Security Studies’ apparent violation of
25 2 U S C § 441b(a). *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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II. FACTUAL AND LEGAL ANALYSIS

A. The Committee's use of ISSS' mailing list to mail campaign material violated 2 U.S.C. § 441b(a).

Since the 1980's, ISSS has been publishing *Space & Security News*, a newsletter to subscribers on topics relating to space and high technology affecting national security.¹ See Response at p. 2 ISSS does not have its own non-profit organization mailing permit, but rather has been using the services of Discount Newsletter Printing, Inc. for the past 20 years to mail its publication. See Bowman Affidavit at p. 2, December 7, 2006.

The publication at issue in the complaint, *National Security News*, was a campaign communication mailed in June and October 2006 to "potential supporters including the 12,000 subscribers and friends of [ISSS] and approximately 6,000 other contributors and political supporters" Response at p. 2. The first page of *National Security News* states that publication of *Space & Security News* was suspended from November 2005 through November 2006 due to Dr. Bowman's campaign for Congress See *id.* at Exhibit 6.

The articles in the June 2006 issue of *National Security News* support Dr. Bowman's candidacy for Federal office, describe his views on issues and positions related to his campaign, and provide contact information for his campaign See Response at Exhibit 6. The newsletter does not refer to any other candidates. *Id.* The first and last pages of the newsletter contain solicitations for contributions to Bowman for Congress Campaign Committee ("the Committee"). *Id.* In addition, at the top of the first page, the newsletter states that it is "paid for by Bowman for Congress," and at the top of the last page the newsletter states, "National

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1 Security News is published by Bowman for Congress.” *Id.* The sender of the newsletter is listed
2 as “Bowman2006 Congressional Campaign Committee,” and a non-profit organization paid
3 mailing permit appears to have been used to mail the newsletter. *Id.*

4 While there is no information indicating that *National Security News* was targeted
5 exclusively to potential voters in Dr. Bowman’s congressional district, page seven of the
6 newsletter states, “...if you live in the district, you can host a house party, walk your precinct,
7 make phone calls, or join Bob’s volunteer staff.” *See* Response at Exhibit 6. This suggests that
8 the newsletter was mailed to at least some potential voters, and, of course, all recipients would
9 have been potential contributors

10 The Committee mailed *National Security News* with Discount Newsletter Printing, Inc.’s
11 non-profit paid postal privilege. *See* Response at pp. 2 - 3.

12 The Committee’s use of ISSS’ mailing list to mail its campaign material violated the
13 prohibition against corporate expenditures or contributions in connection with a Federal election
14 as set forth in the The Federal Election Campaign Act of 1971, as amended (“the Act”).
15 *See* 2 U.S.C. § 441b(a). A contribution is defined as including any gift, subscription, loan,
16 advance, or deposit of money, or anything of value made by any person for the purpose of
17 influencing any Federal election. 11 C.F.R. § 100.52(a). The term “anything of value” includes
18 all in-kind contributions; and unless specifically exempted, the provision of goods or services
19 without charge or at a charge that is less than the usual and normal charge for such good or
20 service. 11 C.F.R. § 100.52(d)(1). The regulations specify mailing lists as an example of a good
21 or service. *Id.*

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1 ISSS' mailing list was something of value used by the Committee to support Dr.
2 Bowman's candidacy to Federal office, and therefore, constituted a prohibited in-kind
3 contribution from ISSS to the Committee in violation of 2 U.S.C. § 441b(a).

4 Given the small amount in violation, however, in the appropriate ordering of its priorities,
5 the Commission has determined to exercise its prosecutorial discretion to dismiss the matter as it
6 pertains to the Institute for Space and Security Studies' apparent violation of 2 U.S.C. § 441b(a)
7 and issue an admonishment

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